

AMENDED IN SENATE APRIL 21, 1997  
AMENDED IN SENATE APRIL 14, 1997  
AMENDED IN SENATE MARCH 17, 1997  
AMENDED IN SENATE FEBRUARY 13, 1997

**SENATE BILL**

**No. 147**

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**Introduced by Senators Ayala and Kopp**

January 13, 1997

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An act to add Article 14 (commencing with Section 53597) to Chapter 3 of Part 1 of Division 2 of Title 5 of, the Government Code, relating to local agency borrowing.

LEGISLATIVE COUNSEL'S DIGEST

SB 147, as amended, Ayala. Local agency borrowing.

Existing law requires that in specified circumstances cities, counties, and other local agencies obtain voter approval for the imposition of general or special taxes or the issuance of bonds.

This bill would require that no local agency, as defined, may incur any indebtedness, as defined, on or after January 1, 1998, *with a maximum maturity that exceeds 10 years*, without prior approval by a majority of the voters if otherwise required or, if not, without complying with specified notice, agenda, and hearing requirements. This requirement would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for

making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 14 (commencing with Section  
2 53597) is added to Chapter 3 of Part 1 of Division 2 of Title  
3 5 of the Government Code, to read:

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5 Article 14. Local Agency Borrowing

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7 53597. (a) Notwithstanding any other provision of  
8 law, no local agency, including a county, a city and  
9 county, a city, a charter city, a school district, a  
10 community college district, any other special district, a  
11 redevelopment agency, a public corporation, a public  
12 board, a public agency, a public authority, a joint powers  
13 authority, or any other public entity may incur any  
14 indebtedness on or after January 1, 1998, *with a maximum*  
15 *maturity that exceeds 10 years*, without complying with  
16 the requirements in subdivision (b). If debt is to be issued  
17 pursuant to a statute which requires at least majority  
18 voter approval, the election provisions of that statute shall  
19 be followed to satisfy this requirement.

20 (b) If indebtedness is to be incurred pursuant to  
21 authority which does not otherwise require electoral  
22 approval, the local agency shall comply with the election  
23 provisions of this article including the following  
24 requirements:

25 (1) At least 10 calendar days before taking action on  
26 any proposal to incur indebtedness, a local agency shall  
27 place an advertisement in a newspaper of general



1 circulation for one time pursuant to Section 6061 and  
2 provide a first-class mailing to those interested parties  
3 who have filed a written request with the local agency for  
4 mailed notice of public meetings or hearings where  
5 proposals to incur local agency indebtedness will be acted  
6 upon.

7 (2) At the hearing at which the indebtedness is  
8 proposed to be acted upon, the local agency shall provide  
9 a written analysis and a verbal presentation of the annual  
10 and aggregate impact of the proposed indebtedness on  
11 the local agency's general fund. The local agency's  
12 written analysis and verbal presentation shall identify the  
13 source of revenue or revenues that will be used to repay  
14 the indebtedness. The local agency's written analysis and  
15 verbal presentation shall also contain an assumption that  
16 the local agency shall not receive any revenue from fees  
17 imposed pursuant to Chapter 5 (commencing with  
18 Section 66000) of Division 1 of Title 7 for the entire  
19 duration of the indebtedness. If a local agency will use  
20 revenues from fees imposed pursuant to Chapter 5  
21 (commencing with Section 66000) of Division 1 of Title  
22 7 to pay any portion of the proposed indebtedness, the  
23 local agency shall not incur the indebtedness without  
24 prior approval by a majority of the voters of the local  
25 agency voting in an election on the question of incurring  
26 each specific indebtedness.

27 (3) At the hearing at which the indebtedness is  
28 proposed to be acted upon, the local agency shall not  
29 consider the proposed indebtedness as part of its consent  
30 calendar, but shall discuss the proposed indebtedness,  
31 and take any action upon it, as a separate agenda item.  
32 The local agency may not approve any proposed  
33 indebtedness except by a separate rollcall vote of its  
34 governing board members.

35 53597.3. (a) For purposes of this article, indebtedness  
36 means any transaction in which the local agency obtains  
37 money or the use or control of funds, tangible assets, or  
38 other thing or service of value, and in which the local  
39 agency incurs an obligation to make payments of any kind  
40 in return, if the obligation to make those payments

1 continues beyond the fiscal year in which the obligation  
2 is first incurred. Indebtedness includes any transaction  
3 involving the issuance by the local agency or by any other  
4 entity on behalf of the local agency of any certificate of  
5 participation, share in an installment sale purchase  
6 contract, leaseback, lease sale purchase, or similar  
7 transaction.

8 (b) Notwithstanding subdivision (a), indebtedness  
9 does not include any contract for employee services,  
10 including any labor contract.

11 (c) Notwithstanding subdivision (a), indebtedness  
12 does not include any lease of any tangible property,  
13 including any building, in which the local agency's  
14 payments are made to a single entity which owns the  
15 tangible property, and in which interest in the lease  
16 payment stream is not resold, divided, or securitized in  
17 any manner.

18 (d) For purposes of this article, a local agency shall be  
19 deemed to incur indebtedness if the local agency enters  
20 into a transaction with a joint powers authority, including  
21 a Marks-Roos Authority, as defined in Section 6585, in  
22 which the local agency incurs an obligation to make  
23 payments as described in subdivision (a).

24 (e) The provisions of this article apply to any  
25 redevelopment agency with a project area within the  
26 boundaries of the local agency.

27 (f) Notwithstanding subdivision (a), indebtedness  
28 does not include any of the following:

29 (1) Temporary borrowing pursuant to Article 7  
30 (commencing with Section 53820) of Chapter 4.

31 (2) Temporary borrowing pursuant to Article 7.5  
32 (commencing with Section 53840) of Chapter 4.

33 (3) Temporary borrowing pursuant to Article 7.6  
34 (commencing with Section 53850) of Chapter 4.

35 (4) Grant anticipation notes pursuant to Article 7.7  
36 (commencing with Section 53859) of Chapter 4.

37 (5) Debt secured exclusively by a private source of  
38 revenue.

39 (6) Bonds issued by a redevelopment agency to be  
40 paid exclusively from the proceeds of taxes pursuant to



1 subdivision (b) of Section 33670 of the Health and Safety  
2 Code.

3 (7) Loans pursuant to Section 55503 of the Water  
4 Code.

5 (8) The refunding of a debt or lease which does not  
6 increase the principal amount of the lease or debt.

7 (9) Debt secured exclusively by a special assessment as  
8 defined in Article XIII D of the California Constitution.

9 (10) Revenue bonds issued pursuant to the following  
10 provisions of law if the revenues pledged to bond  
11 repayment are derived exclusively from the charges, fees,  
12 tolls, rates, rentals, or other identified enterprise revenue  
13 activity, and not from lease payments:

14 (A) Chapter 14 (commencing with Section 26301) of  
15 Division 2 of Title 3.

16 (B) Chapter 5 (commencing with Section 4950) of  
17 Part 3 of Division 5 of the Health and Safety Code.

18 (C) Chapter 5 (commencing with Section 32315) of  
19 Division 23 of the Health and Safety Code.

20 (D) Article 5 (commencing with Section 34350) of  
21 Chapter 1 of Part 2 of Division 24 of the Health and Safety  
22 Code.

23 (E) Article 6 (commencing with Section 16571) of  
24 Chapter 4 of Division 7 of the Public Utilities Code.

25 (F) Chapter 6 (commencing with Section 17001) of  
26 Division 7 of the Public Utilities Code.

27 (G) Chapter 4 (commencing with Section 36300) of  
28 Part 6 of Division 13 of the Water Code.

29 (11) Revenue bonds or other indebtedness issued by  
30 an agency formed pursuant to Section 66484.3.

31 SEC. 2. The Legislature finds and declares that all  
32 Californians deserve to be better educated by their local  
33 elected and appointed officials about the consequences of  
34 incurring multiyear debt through the issuance of  
35 certificates of participation and other financing tools.  
36 Because all local elected and appointed officials should  
37 provide uniform information about proposed  
38 indebtedness to their constituents, the Legislature  
39 hereby finds that the notice, hearing, and analysis  
40 requirements of this act are an issue of statewide concern.

1 In addition, the Legislature finds and declares that local  
2 agencies' developer fee revenue, because it is subject to  
3 dramatic fluctuations, should not be relied upon as a  
4 source of debt repayment. The Legislature further finds  
5 and declares that local agencies commonly finance  
6 equipment and facilities with nonvoter-approved  
7 certificates of participation instead of voter-approved  
8 general obligation bonds and revenue bonds. Finally, the  
9 Legislature finds and declares that citizens should be  
10 given the opportunity to learn about and understand the  
11 benefits and drawbacks of incurring multiyear debt that  
12 will result in debt payments that preclude the  
13 expenditure of agency funds for other activities.

14 SEC. 3. Notwithstanding Section 17610 of the  
15 Government Code, if the Commission on State Mandates  
16 determines that this act contains costs mandated by the  
17 state, reimbursement to local agencies and school  
18 districts for those costs shall be made pursuant to Part 7  
19 (commencing with Section 17500) of Division 4 of Title  
20 2 of the Government Code. If the statewide cost of the  
21 claim for reimbursement does not exceed one million  
22 dollars (\$1,000,000), reimbursement shall be made from  
23 the State Mandates Claims Fund.

24 Notwithstanding Section 17580 of the Government  
25 Code, unless otherwise specified, the provisions of this act  
26 shall become operative on the same date that the act  
27 takes effect pursuant to the California Constitution.

